

Salinas Business License Tax Overview and Update:

The Salinas Business License Tax increase is an issue that our Association has been deliberating with city staff since the beginning of this year. The interpretation of the "Business License Tax Ordinance", the appropriate classification of brokers and commissioned agents and subsequently, their respective license fee exactions are the core points being challenged by the Association.

Though conversations have been productive, and staff for both sides have been up front on their given positions, a lack of thorough research into the claims of our association has produced an inability to achieve accord.

To summarize the challenge; the City of Salinas is categorizing both real estate agents and brokers under the same "professionals" classification by asserting that, "real estate agents are not traditional employees: individual real estate agents may hold themselves out in the community as independent of the brokers for whom they work and may independently transact business within the City, for which they receive a commission or a fee".

I'm sure many, if not most of you, are grasping for air at this point as we all know this is simply not an accurate depiction of the broker / real estate agent relationship. Under the law, (Bus. & Prof. Code Sec. 10132) it is clear that a real estate salesperson is employed by and acts on behalf of a real estate broker in performing acts requiring a real estate license. All business must be transacted in the name of the employing broker and only the employing broker may compensate the salespersons in the broker's employ. (Bus. & Prof. Code Sec. 10137) And so on and so forth.

While it is our always our intention to work collaboratively with each jurisdiction or municipality, situations do arise from time-to-time in which stronger methods of communication are needed. It is our desire that through these conversations, a collaborative resolution is achieved.

As for where this leaves you, the Commissioned agents and/or Brokers; we believe it would be prudent to wait until the end of this month (License Renewal Due Date) before filing your renewal or issuing payment. There is a diligent effort to have this issue resolved by months end though there are no guarantees that this will occur. We will continue to update the membership on a weekly basis as to the status of this issue. Thank you for your continued patience as we work through this challenge together.

Kevin

MCAR / CAR Policy Advocates Hard at Work

While the Government & Community Affairs team here at the Monterey County Association of Realtors® (MCAR) has been hard at work advocating on behalf of our real estate community locally, our state-wide chapter, the California Association of Realtors® (CAR) has also been diligent and successful in their lobbying efforts at the State Capitol.

After participating in this years CAR Summer Meetings at the State Capitol, I was encouraged to see the tangible results of our state level partners. Through aggressive marketing of sponsored bills, and the enduring efforts of educating and publicizing implicit results from proposed legislation adversely affecting our industry, the CAR lobbying team underscored the direct benefit of our partnership - results that all of us can appreciate in this ever-changing real estate climate.

I encourage you to take the opportunity (if you have not already done so) to check out the new CAR website - www.car.org - and utilize the resources available to you as a member of our association.

FORECLOSURE RELIEF BILL BECOMES LAW

This week, the State Legislature enacted foreclosure reform law to address the adverse effects of high foreclosure rates in California. The new law requires lenders to contact homeowners to explore options for avoiding foreclosure at least 30 days before filing a notice of default. It also requires owners acquiring property through foreclosure to maintain the exterior of vacant residential properties. The new law also extends from 30 to 60 days the time for residential tenants to move out of properties that have been foreclosed upon, unless other laws apply. These requirements will remain in effect until January 1, 2013. The full text of Senate Bill 1137 (Perata) is available at www.leginfo.ca.gov.

Highlights of the new law are as follows:

- **Contact Between Lender and Borrower:** Effective on or about September 8, 2008, a lender, trustee, or authorized agent may not file a notice of default until 30 days after contacting a borrower to assess the borrower's financial situation and explore options for avoiding foreclosure. A lender must generally contact the borrower in person or by telephone, or satisfy due diligence requirements for contacting a borrower. During the initial contact, the lender must inform the borrower of the right to request a meeting with the lender within 14 days. The lender must also give the borrower the toll-free number for finding a HUD-certified housing counseling agency. A subsequent notice of default must include the lender's declaration that it has contacted the borrower, tried with due diligence to contact the borrower, or the borrower has surrendered the property. A lender who had already filed a notice of default before the enactment of this law must include a similar declaration in the notice of sale. This requirement to contact borrowers applies to loans secured by owner-occupied residences made from 2003 to 2007. Certain exemptions apply if the borrower has filed for bankruptcy, surrendered the property, or contracted with a person or entity whose primary business is advising people, who have decided to leave their homes, on how to extend the foreclosure process and avoid their contractual obligations.

- **Maintenance of Vacant Properties:** Effective July 8, 2008, anyone who acquires property through foreclosure must maintain the exterior of vacant residential property. Violations of this law include permitting excessive foliage growth that diminishes the value of surrounding properties, failing to take action against trespassers or squatters, failing to take action to prevent mosquitoes from breeding in standing water, or other public nuisances. This law authorizes a governmental

entity to impose a civil fine up to \$1,000 per day for any violation, as long as the owner has been given notice and an opportunity to remedy the violation. A violator must be given at least 14 days to begin, and 30 days to complete, such remediation before a fine can be assessed.

- 60-Day Notice to Terminate Tenants: Effective July 8, 2008, a tenant or subtenant in possession of a rental housing unit that has been sold through foreclosure is generally entitled to a 60-day written notice to quit, not just 30 days. However, a borrower who remains on the property after foreclosure may be served a three-day notice to terminate. This law does not affect, among other things, rent-controlled properties with just-cause evictions. Effective on or about September 8, 2008, the lender, trustee, or authorized agent posting a notice of sale must also post and mail a specified notice of a tenant's right to a 60-day eviction notice from the new owner, unless other laws apply. This requirement to notify tenants of their rights applies to loans secured by residential real property where the borrower has a different billing address than the property address.

Sincerely,

Kevin Stone
Government & Community Affairs Director
Monterey County Association of REALTORS®